

- 37 (4) NRHM TRANSPORTATION means motor vehicle transportation of
38 NRHM in such quantities that the vehicle is required to carry and exhibit
39 placards pursuant to the Code of Federal Regulations.
- 40 (5) NRHM VEHICLE means a motor vehicle transporting regulated
41 materials subject to this Chapter.
- 42 (6) VEHICLE REQUIRING PLACARDS means any vehicle transporting
43 hazardous materials in sufficient quantity to require placarding as set
44 forth in the United States Department of Transportation Hazardous
45 Materials Regulations.
- 46 (7) REGULATED MATERIAL means NRHM.
- 47 (8) THROUGH TRAFFIC TRANSPORTATION means transportation of
48 any regulated material that originates outside of the City with no
49 deliveries or pick-ups within the City.

50 **§12-8-3 – TRANSPORTATION OF NRHM.**

51
52 A person shall not transport, contract, arrange, or participate in the transport,
53 contract, or arrangement to transport NRHM unless the destination or point of departure
54 is a City Terminal and the transport is in compliance with this Chapter.

55 **§12-8-4 – ROUTES FOR LOCAL DELIVERY.**

56
57 (A) A carrier shall use the safest route available by the best use of the highest
58 classified roadway, as classified in Subsection (B) of this section, when a NRHM
59 Vehicle is carrying NRHM to any point of origin or destination located within the
60 corporate limits of the City.

61 (B) The Federal Highway Administration (FHWA) classifies roadways from
62 highest to lowest as follows:

- 63 (1) designated Interstate Highway;
- 64 (2) designated United States Highway;
- 65 (3) designated State Highway;
- 66 (4) other designated Freeways and Expressways;
- 67 (7) principal arterial street (roadways providing a high degree of mobility
68 and serving long distance trips);
- 69 (8) minor arterial street (roadways serving moderate length trips);

- 70 (9) collector street (roadways serving short length trips from arterial to
71 local streets); and
- 72 (10) local street (roadways providing the highest degree of access and lowest
73 mobility).

74 (C) The public health and safety reason for use of the highest classification of
75 roadway, is to reduce the risk and severity of potential harm to persons and
76 property that may result from a spill of regulated or hazardous material.

77 **§12-8-5 – ROUTES FOR THROUGH TRAFFIC.**

78
79 (A) A person shall only transport NRHM on SH 130 and those highways that
80 connect to SH 130 which are set forth below:

- 81 (1) both directions of the following roadways within the jurisdiction of the
82 City:
- 83 SH 130 within the city limits
 - 84 SH 45 South from IH 35 to city limits
 - 85 IH 35 from south city limits to SH 71/US 290
 - 86 SH 71 from west city limits to east city limits
 - 87 US 290 from west city limits to IH 35
 - 88 US 290 from east city limits to SH 130
 - 89 SH 45 north from US 183 east to city limits

90 (B) A person shall comply with all provisions of this Chapter pertaining to
91 necessity for placarding vehicles transporting regulated materials in the City,
92 regardless of route.

93 (C) It is an affirmative defense to a departure from the permissible route that:

- 94 (1) the vehicle in question is immediately and directly destined for a
95 location providing food, fuel, rest, safe haven, or repair; or
- 96 (2) the vehicle is using access, frontage, or intersecting roadways as needed
97 to enter and leave the location providing food, fuel, rest, safe haven or
98 repair.

99 **§12-8-6 – PLACARD REQUIREMENTS.**

100
101 The operator of a vehicle used to transport hazardous materials requiring placards
102 shall:

103 (A) Apply and display appropriate placards meeting United States Department
104 of Transportation specifications on each end and each side of the vehicle; and

105 (B) Before operation, inspect the vehicle to determine that:

106 (1) the brakes and tires are in good working condition;

107 (2) the steering mechanism is in good working condition;

108 (3) the electrical wiring is well insulated and firmly secured; and

109 (4) the vehicle is in a condition adequate to safely transport hazardous
110 materials.

111 **§12-8-7 – LOCAL DELIVERY ROUTES; OFFENSE; AND BURDEN OF PROOF.**

112
113 (A) A person engaged in the transportation, arrangement, contact, or any
114 participation in transport of arrangement, or contract for transportation of local
115 delivery of NRHM on any street or roadway within the City shall make the best
116 use of the highest classification of roadway available to:

117 (1) protect neighborhoods and the traveling public from nuisance,
118 inconvenience, or disturbance of normal sensibilities of any person; and

119 (2) minimize exposure of neighborhoods and the traveling public to harm
120 that may result from a spill of regulated or hazardous material.

121 (B) A person commits an offense if the person transports, arranges, contracts, or
122 participates in transport of arrangement, or contract for local delivery of NRHM on
123 any street or roadway within the City which route is not based on the best use of
124 the highest classification of roadway.

125 (C) A person engaged in transport, arrangement, or contract for transport of
126 regulated materials shall have the affirmative duty to determine, devise, and restrict
127 local delivery to such restricted route for the benefit of the public health, safety,
128 and welfare.

129 (D) A responsible person has the burden of proof to demonstrate best use of the
130 highest classification of roadway.

131 (E) A formal complaint, properly drawn and corroborated as may be required by
132 law, shall create a rebuttable presumption that the responsible person violated the
133 best use standard for highest classification roadway transportation or delivery of
134 NRHM.

135 **§12-8-8 - EMPTY VEHICLES.**

136 (A) Subject to Subsection (B), this Chapter does not apply to an empty vehicle
137 that has been used previously to transport regulated materials.

- 138 (B) A vehicle that has transported NRHM in bulk packaging, or in any other
139 type of container, and that is required to be placarded pursuant to the Code
140 of Federal Regulations shall remain placarded when it is empty unless it is:
- 141 (1) sufficiently cleaned of residue and purged of vapors to remove any
142 potential hazard; or
 - 143 (2) refilled with a material requiring different placards or no placards, to
144 such an extent that any residue remaining in the packaging is no longer
145 hazardous.

146 **§12-8-9 - OFFENSE FOR USE OF PROHIBITED ROUTES.**

- 147
- 148 (A) An operator of a motor vehicle transporting NRHM scheduled for delivery
149 to or from a City of Austin terminal, or found or apprehended on any public
150 roadway in the City, shall not transport those materials on any street or public
151 highway, or segment of a street or public highway designated a "prohibited NRHM
152 route."
- 153 (B) A person commits an offense if that person transports, arranges to transport,
154 or contracts for transport of NRHM on any public roadway or street designated a
155 prohibited NRHM route.
- 156 (C) A person commits an offense if that person transports, arranges to transport,
157 or contracts for transport of NRHM, required under state or federal regulation to be
158 transported under placard, without an appropriate placard.

159 **§12-8-10 – AUSTIN POLICE DEPARTMENT (APD) DISCRETION AND PUBLIC**
160 **SAFETY.**

- 161
- 162 (A) APD may temporarily suspend the operation of any vehicles carrying
163 regulated NRHM, without notice whenever road, weather, traffic, or other exigent
164 circumstances warrant such action.
- 165 (B) APD may redirect through traffic vehicles carrying regulated NRHM onto
166 any highway or roadway, public or private, when the through traffic route is
167 blocked or otherwise deemed necessary. Such redirection is deemed as for benefit
168 of public safety and has the authority of law.

169 **§12-8-11 - EMERGENCY RESPONSE VEHICLE CARRYING FUEL.**

170

171 It shall be permissible and is an affirmative defense to a violation of this Chapter
172 that the vehicle transporting a regulated material is carrying fuel directly to the scene of
173 an emergency, or for a public emergency purpose, specific to the function of fueling
174 equipment used to respond to or address the emergency.

175 **§12-8-12- PROHIBITED PARKING AND STANDING.**

176 (A) A person shall not permit a vehicle transporting regulated NRHM to park or
177 stand at any location within the City, except for purposes of loading or unloading.
178

179 (B) This Section does not apply to:

180 (1) vehicles parked in designated truck parking areas of locations providing
181 food, fuel, rest, safe haven, or repair; or

182 (2) vehicles parked in the parking areas of businesses engaged in the
183 transportation, storage, or production of hazardous materials.

184 **§12-8-13- OFFENSE.**

185 (A) Violation of any of the provisions of this Chapter shall constitute an offense
186 punishable by a fine of not less than five hundred dollars (\$500.00) and not to
187 exceed two thousand dollars (\$2,000.00), to the extent such violation may pose a
188 fire or public health threat.
189

190 (B) The City shall be entitled to pursue all remedies, at law and in equity,
191 including but not limited to injunctive relief, with attendant civil penalties as may
192 be provided under state statute, which remedies shall be cumulative of the criminal
193 laws, none of which shall be mutually exclusive of the other.

194
195 **PART 2.** This ordinance takes effect on _____, 2021

196 **PASSED AND APPROVED**

197
198
199 §
200 §
201 _____, 2021 § _____

202 Steve Adler
203 Mayor

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205
206
207 **APPROVED:** _____ **ATTEST:** _____
208 Anne L. Morgan Jannette S. Goodall
209 City Attorney City Clerk
210
211